SUPREME COURT OF THE UNITED STATES

IN RE JOHN ROBERT DEMOS, JR.

90–7225

ON PETITION FOR WRIT OF HABEAS CORPUS

IN RE JOHN ROBERT DEMOS, JR.

90–7296

ON PETITION FOR WRIT OF MANDAMUS

Nos. 90–7225 AND 90–7296. Decided April 29, 1991

JUSTICE MARSHALL, with whom JUSTICE BLACKMUN and JUSTICE STEVENS join, dissenting.

Today, this Court blacklists another indigent *pro se* litigant. The order issued today, which bars future *in forma pauperis* filings for extraordinary writs by John Demos and hints that restrictions on other filings by Demos might be forthcoming, marks the third such proscription the Court has initiated in the last two years. See *In re Sindram*, —— U. S. —— (1991); *In re McDonald*, 489 U. S. 180 (1989). Yet, as in *Sindram* and *McDonald*, the Court fails to identify any statute or rule giving it the extraordinary authority to impose a permanent ban on an indigent litigant's *in forma pauperis* filings. Nor does the Court satisfactorily explain why it has singled out an indigent litigant for having lodged frivolous filings when paying litigants often are guilty of the same sin.

I continue to oppose this Court's unseemly practice of banning *in forma pauperis* filings by indigent litigants. See *In re Sindram*, *supra*, at —— (1991) (MARSHALL, J., dissenting); *In re McDonald*, *supra*, at 185 (1989) (Brennan, J. dissenting, joined by MARSHALL, BLACKMUN, and STEVENS, JJ.). As I have argued, the Court's assessment of the disruption that an overly energetic litigant like Demos poses to "the orderly consideration of cases," *ante*, at 1, is greatly exaggerated. See *In re Sindram*, *supra*, at —— (dissenting

opinion). The Court is sorely mistaken if it believes that the sclution to the problem of a crowded docket is to crack down on a litigant like Demos.

Two years ago, Justice Brennan sagely warned that in "needless[ly] depart[ing] from its generous tradition" of leaving its doors open to all classes of litigants, the Court "sets sail on a journey whose landing point is uncertain." *In re McDonald*, *supra*, at 188 (dissenting opinion). The journey's ominous destination is becoming apparent. The Court appears resolved to close its doors to increasing numbers of indigent litigants—and for increasingly less justifiable reasons.* I fear that the Court's action today portends even more draconian restrictions on the access of indigent litigants to this Court.

In closing its doors today to another indigent litigant, the Court moves ever closer to the day when it leaves an indigent litigant with a meritorious claim out in the cold. And with each barrier that it places in the way of indigent litigants, and with each instance in which it castigates such litigants for having "abused the system," *ante*, at 1, the Court can only reinforce in the hearts and minds of our society's less fortu-

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*Indeed, the ban the Court imposes on Demos' *in forma pauperis* filings for extraordinary writs seems particularly unjustifiable. The Court makes much of the fact that Demos has made 32 *in forma pauperis* filings since 1988. Yet, according to the records of the Clerk of the Court, only *four* of those filings have been for extraordinary writs, the sole subject of the ban announced today. It cannot be seriously contended that these four filings in the last three years have so disrupted the orderly administration of this Court's business as to require barring any such future filings. More likely, the Court's ban on Demos' *in forma pauperis* requests for extraordinary writs is but a poorly disguised penalty for his more numerous petitions for certiorari. See also *In re Sindram*, —— U. S. ——, —— (1991) (BLACKMUN, J., dissenting, joined by MARSHALL, J.) (noting that Court's ban upon petitioner's *in forma pauperis* filings for extraordinary relief "appears to be nothing more than an alternative for punishing [petitioner] for the frequency with which he has filed petitions for certiorari and petitions for rehearing").

nate members the unsettling message that their pleas are not welcome here.

I dissent.